

1 CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**Amanda Liendo,**

Plaintiff,

v.

**Kuei Feng Wu;**  
**Wan Hui Huang;**  
**Johnny's Shrimp Boat, Inc., a**  
California Corporation; and Does 1-  
10,

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Amanda Liendo complains of Defendants Kuei Feng Wu; Wan Hui Huang; Johnny's Shrimp Boat, Inc., a California Corporation; and Does 1-10 ("Defendants") and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. She is a paraplegic who cannot walk and who uses a wheelchair for mobility.
2. Defendants Kuei Feng Wu and Wan Hui Huang owned the property located at or about 11236 Washington Blvd., Whittier, California, in October

1 2014.

2 3. Defendants Kuei Feng Wu and Wan Hui Huang own the property  
3 located at or about 11236 Washington Blvd., Whittier, California, currently.

4 4. Defendant Johnny's Shrimp Boat, Inc. owned Johnny's Shrimp Boat  
5 restaurant ("Restaurant") located at or about 11236 Washington Blvd.,  
6 Whittier, California, in October 2014.

7 5. Defendant Johnny's Shrimp Boat, Inc. owns Johnny's Shrimp Boat  
8 restaurant ("Restaurant") located at or about 11236 Washington Blvd.,  
9 Whittier, California, currently.

10 6. Plaintiff does not know the true names of Defendants, their business  
11 capacities, their ownership connection to the property and business, or their  
12 relative responsibilities in causing the access violations herein complained of,  
13 and alleges a joint venture and common enterprise by all such Defendants.  
14 Plaintiff is informed and believes that each of the Defendants herein,  
15 including Does 1 through 10, inclusive, is responsible in some capacity for  
16 the events herein alleged, or is a necessary party for obtaining appropriate  
17 relief. Plaintiff will seek leave to amend when the true names, capacities,  
18 connections, and responsibilities of the Defendants and Does 1 through 10,  
19 inclusive, are ascertained.

20

21 **JURISDICTION & VENUE:**

22 7. This Court has subject matter jurisdiction over this action pursuant to  
23 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans  
24 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

25 8. Pursuant to supplemental jurisdiction, an attendant and related cause  
26 of action, arising from the same nucleus of operative facts and arising out of  
27 the same transactions, is also brought under California's Unruh Civil Rights  
28 Act, which act expressly incorporates the Americans with Disabilities Act.

1       9. Venue is proper in this court pursuant to 28 U.S.C. § 1331(b) and is  
2 founded on the fact that the real property which is the subject of this action is  
3 located in this district and that Plaintiff's cause of action arose in this district.  
4

5       **FACTUAL ALLEGATIONS:**

6       10. The Plaintiff went to the Restaurant in October 2014 to eat.

7       11. The Restaurant is a facility open to the public, a place of public  
8 accommodation, and a business establishment.

9       12. Restrooms are one of the facilities, privileges and advantages  
10 specifically reserved by defendants to persons at the Restaurant.

11       13. Unfortunately, the women's restroom doorway clear passage width was  
12 24 inches and inaccessible to wheelchair users in October 2014.

13       14. Additionally, the path of travel leading to the restroom entrance  
14 required a person to navigate a step for which there was no ramp in October  
15 2014.

16       15. Moreover, the restroom provides a toilet. However, instead of  
17 providing two grab bars on adjacent or parallel walls for use by persons with  
18 disabilities who need to transfer to the toilet, there were no grab bars in  
19 October 2014.

20       16. The plumbing underneath the sink was not wrapped to protect against  
21 burning contact in October 2014.

22 Finally, there were wall mounted accessories and equipment in the restroom  
23 including a paper towel dispenser. Unfortunately, it was mounted so that its  
24 highest operable parts were greater than 54 inches above the finished floor  
25 and inaccessible to wheelchair users in October 2014.

26       17. Currently, the restroom remains inaccessible to wheelchair users.

27       18. The plaintiff personally encountered these problems. This inaccessible  
28 condition denied the plaintiff full and equal access and caused her difficulty

1 and frustration.

2 19. Plaintiff would like to return and patronize the Restaurant but will be  
3 deterred from visiting until the defendants cure the violations.

4 20. Plaintiff has wanted to patronize the Restaurant since her October  
5 2014 visit but she is deterred from returning until the violations are fixed.

6 21. Plaintiff lives just six miles from the Restaurant.

7 22. Because of the location of the Restaurant, plaintiff would like to return.

8 23. The defendants have failed to maintain in working and useable  
9 conditions those features required to provide ready access to persons with  
10 disabilities.

11 24. The violations identified above are easily removed without much  
12 difficulty or expense. They are the types of barriers identified by the  
13 Department of Justice as presumably readily achievable to remove and, in  
14 fact, these barriers are readily achievable to remove. Moreover, there are  
15 numerous alternative accommodations that could be made to provide a  
16 greater level of access if complete removal were not achievable.

17 25. Given the obvious and blatant violation, the plaintiff alleges, on  
18 information and belief, that there are other violations and barriers on the site  
19 that relate to his disability. Plaintiff will amend the complaint, to provide  
20 proper notice regarding the scope of this lawsuit, once he conducts a site  
21 inspection. However, please be on notice that the plaintiff seeks to have all  
22 barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034  
23 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site,  
24 she can sue to have all barriers that relate to his disability removed regardless  
25 of whether he personally encountered them).

26 26. Additionally, on information and belief, the plaintiff alleges that the  
27 failure to remove these barriers was intentional because: (1) these particular  
28 barriers are intuitive and obvious; (2) the defendants exercised control and

1 dominion over the conditions at this location and, therefore, the lack of  
2 accessible facilities was not an “accident” because had the defendants  
3 intended any other configuration, they had the means and ability to make the  
4 change.

5

6 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS  
7 WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against all  
8 defendants (42 U.S.C. section 12101, et seq.)

9 27. Plaintiff repleads and incorporates by reference, as if fully set forth  
10 again herein, the allegations contained in all prior paragraphs of this  
11 complaint.

12 28. Under the ADA, it is an act of discrimination to fail to ensure that the  
13 privileges, advantages, accommodations, facilities, goods and services of any  
14 place of public accommodation is offered on a full and equal basis by anyone  
15 who owns, leases, or operates a place of public accommodation. See 42  
16 U.S.C. § 12182(a). Discrimination is defined, *inter alia*, as follows:

17 a. A failure to make reasonable modifications in policies, practices,  
18 or procedures, when such modifications are necessary to afford  
19 goods, services, facilities, privileges, advantages, or  
20 accommodations to individuals with disabilities, unless the  
21 accommodation would work a fundamental alteration of those  
22 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).

23 b. A failure to remove architectural barriers where such removal is  
24 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
25 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,  
26 Appendix “D.”

27 c. A failure to make alterations in such a manner that, to the  
28 maximum extent feasible, the altered portions of the facility are

1           readily accessible to and usable by individuals with disabilities,  
2           including individuals who use wheelchairs or to ensure that, to  
3           the maximum extent feasible, the path of travel to the altered  
4           area and the bathrooms, telephones, and drinking fountains  
5           serving the altered area, are readily accessible to and usable by  
6           individuals with disabilities. 42 U.S.C. § 12183(a)(2).

7           29. There must be an accessible path of travel that connects all buildings,  
8           elements and spaces on the same site. 1991 Standards § 4.3.2. To be  
9           considered an accessible route, there cannot be a stair or step. 1991  
10           Standards § 4.3.8. Any such change in level measuring greater than  $\frac{1}{2}$  inch  
11           must have a ramp or lift. *Id.* 2010 Standards § 303.4.

12           30. Here, the unramped step is a violation of the ADA.

13           31. All doors to restrooms must have a minimum clear opening of 32  
14           inches with the door open 90 degrees, measured between the face of the door  
15           and the opposite stop. 1991 Standards § 4.22.2; 4.13.5; 2010 Standards §  
16           404.2.3.

17           32. Here, the failure to provide the 32 inch wide restroom doorway  
18           opening is a violation of the ADA.

19           33. If controls, dispensers, receptacles or other equipment is provided in a  
20           restroom, they must be on an accessible route and be mounted so that their  
21           highest operable parts are no greater than 54 inches above the floor. 1991  
22           Standards § 4.22.7; 4.27.

23           34. Here, the failure to ensure that the wall mounted accessories met the  
24           height requirement is a violation of the ADA.

25           35. Hot water and drain pipes under lavatories must be insulated or  
26           otherwise configured to protect against contact. 1991 Standards § 4.19.4;  
27           2010 Standards § 606.5.

28           36. Here, the failure to wrap the plumbing underneath the sink is a

1 violation of the ADA.

2 37. For a toilet to be considered accessible under the ADA, there must be  
3 two grab bars on walls adjacent to the toilet to assist persons with disabilities  
4 to transfer to the toilet. 1991 Standards § 4.16.4; 2010 Standards § 604.5.

5 38. Here, the failure to provide compliant grab bars is a violation.

6 39. Thresholds at doorways cannot exceed 3/4 inches for exterior sliding  
7 doors and 1/2 for all other doors. 1991 Standards § 4.13.8; 2010 Standards  
8 § 404.2.5.

9 40. Here, the threshold at the back entrance was higher than that allowed  
10 by law.

11 41. There must be an accessible path of travel that connects all buildings,  
12 elements and spaces on the same site. 1991 Standards § 4.3.2. To be  
13 considered an accessible route, there cannot be a stair or step. 1991  
14 Standards § 4.3.8. Any such change in level measuring greater than 1/2 inch  
15 must have a ramp or lift. *Id.* 2010 Standards § 303.4.

16 42. Here, the unramped step is a violation of the ADA.

17 43. A public accommodation must maintain in operable working condition  
18 those features of its facilities and equipment that are required to be readily  
19 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

20 44. Here, the failure to ensure that the accessible facilities were available  
21 and ready to be used by the plaintiff is a violation of the law.

22 45. Given its location and options, plaintiff will continue to desire to  
23 patronize the Restaurant but she has been and will continue to be  
24 discriminated against due to the lack of accessible facilities and, therefore,  
25 seeks injunctive relief to remove the barriers.

26

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1                   **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
2                   **RIGHTS ACT** (On behalf of plaintiffs and against all defendants) (Cal Civ §  
3                   51-53)

4                   46. Plaintiff repleads and incorporates by reference, as if fully set forth  
5                   again herein, the allegations contained in all prior paragraphs of this  
6                   complaint.

7                   47. Because the defendants violated the plaintiffs' rights under the ADA,  
8                   they also violated the Unruh Civil Rights Act and are liable for damages. (Civ.  
9                   Code § 51(f), 52(a).)

10                  48. Because the violation of the Unruh Civil Rights Act resulted in  
11                  difficulty, discomfort or embarrassment for the plaintiffs, the defendants are  
12                  also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §  
13                  55.56(a)-(c).)

14

15                  **PRAYER:**

16                  Wherefore, Plaintiff prays that this court award damages and provide  
17                  relief as follows:

18                  1. For injunctive relief, compelling defendants to comply with the  
19                  Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
20                  Plaintiff is not invoking section 55 of the California Civil Code and is not  
21                  seeking injunctive relief under the Disabled Persons Act at all.

22                  2. Damages under the Unruh Civil Rights Act which damages provide for  
23                  actual damages and a statutory minimum of \$4,000.

3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to 42 U.S.C. § 12205; Cal. Civ. Code § 52.

Dated: January 11, 2016

## CENTER FOR DISABILITY ACCESS

By: Mark Potter, Esq.  
Attorneys for Plaintiff